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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pedersen et al.
Title: Radio Terminal
Appl. No.: 09/558,378
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Examiner: Delgado, Michael A.
Art Unit: 2144

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program, announced July 11, 2005 and extended on January 10, 2006, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

REMARKS

Claims 1-16 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,119,155 issued to Rossman et al. ("Rossman"). The rejection should be withdrawn because the prior art does not anticipate the claimed invention. For example, the only reference applied to the present claims, Rossman, does not teach "asynchronously pushing" items from the server to the browser without the browser requesting the items nor the use of an arbitrator to determine which data has been pulled and which has been pushed.

The present application describes a terminal for providing an application using a browser. The terminal comprises a transceiver arranged to send items to and receive items from a server and further comprises a browser for displaying content and a memory unit for storing items. The terminal is in communication with the memory so as to store in the memory, for access by the browser, items which are pulled from the server in response to requests to transfer and items which are asynchronously pushed from the server without a request from the browser. An item is accessed by attempting to read the item from the memory. If that attempt is unsuccessful (e.g., the item is not in memory), a request for transfer of the item from the server is performed using a radio packet with the appropriate content identifier.

The Examiner has asserted that Rossman teaches the asynchronous push of an item from the server as required by all of the pending claims 1-16. Applicant disagrees with this position. Rossman relates to a method for navigating hypertext pages. The Examiner asserted that Rossman teaches, at Col. 6, lines 10-20 and Figure 2, the use of an asynchronous push mechanism to transfer an unrequested item from the server to a user. First, Applicant notes that Figure 2 of Rossman does not even show a server nor indicate that a push mechanism is used. Second, the cited text of Rossman also fails to teach asynchronous pushing. Instead, the text deals with the transferring of an initial item (deck) to the user in response to the initial communication session request. Rossman states that a processor of the phone "initiates a communication session request to the server device . . . [u]pon establishing the communication session, the phone 120 typically receives a single HDML deck from the sever device and stores the deck as cached in RAM 124." See Col. 6, lines 24-29. This text

clearly teaches the transfer of an item in response to the user's request, which is not a push as referred to in the present application and is generally not understood as such by one of ordinary skill in the art. In fact, many other portions of Rossman make it clear that Rossman is describing only pull (as is typical in HDML or WML applications) situations. For example, at Col. 6, lines 44-48, and Col. 8, lines 49-64, Rossman makes clear that a pull mechanism is used wherein the user requests an item. In addition, Rossman indicates that the server and terminal are in a synchronous communication relationship rather than an asynchronous one.

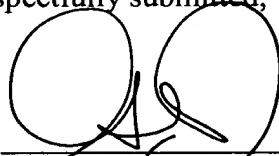
In contrast, the claims of the present application relate to an asynchronous push, i.e. the delivery of information that is initiated by the server not by the user. For example and as described in the patent application, email is a typical push application. In claims 1-16, for example, the terminal is "arranged to store in the memory, for access by the browser, items pulled from the server in response to requests for transfer and items pushed asynchronously from the server without having been requested by the browser."

In addition to the lack of an asynchronous push, Rossman also fails to teach an "arbitration means" as claimed in claims 10-13. The cited portions of Rossman (Col 6, lines 30-35 and Col 13, lines 55-67), as well as the reference as a whole, fail to teach the use of an arbitration means as claimed. As Applicant has described at paragraph 30, "[t]he arbitrator 120 determines whether a received message is in response to a request from the browser (synchronous) or is not in response to a request from the browser but pushed from the server over interface 30 (asynchronous)." Rossman teaches the use of a cache (memory) for storing items, but does not describe the use of a mechanism for determining whether an item received from a server was pulled by the browser or pushed from the server. The language of Rossman at Col. 13, lines 61-63 contemplates the scenario where a server sends multiple decks (items), but it provides no teaching of arbitration means to determine whether the item was pushed or pulled from the server. The Examiner has improperly taken Rossman's teaching of a cache and combined it with hindsight derived from the teachings of the present invention to support the rejection by arguing that in order to achieve the display of the item as taught by Rossman, an arbitration means must be used.

Applicants respectfully submit that all of the pending claims, 1-16, are allowable over Rossman, as that reference fails to teach asynchronous push as a means for transferring data from the server to the terminal. Claims 10-13 are also allowable over Rossman for the additional reason that Rossman fails to teach the use of an arbitration means for determining whether data was pushed or pulled.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance and request that the rejections be withdrawn.

Respectfully submitted,



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